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RELIGIOUS COMMUNITIES IN LATE SASANIAN AND EARLY MUSLIM IRAQ¹⁾

BY

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The emergence of a segmented society composed of separate religious communities is usually associated with Islam and marks a major change in forms of social organization which was part of the general transformation taking place in the Middle East from the fourth to the ninth centuries. This change produced a society composed of religious communities which amounted to social corporations with their own legal institutions which gave sanction to matters of personal status such as marriage, divorce, and inheritance. The existence of such communities was fundamental to the formation of Islamic society and serves as the single most important distinction between it and Hellenistic society. The appearance of such communities was a matter of both organization and identity, and from a personal point of view this meant the replacement of other means of identification based on language, occupation, or geographical location by a primary identity based on membership in a religious community. It should be said at the outset, however, that such transfers of identity were never as total or precise as they would seem in theory and that ethnic identities managed to survive, sometimes because they coincided with religious communities which gave them institutional form.

Apart from possible Hellenistic antecedents (eg. the *politeuma*), conditions in Iraq in the late Sasanian period were especially favorable for this transformation. As a result, important precedents were established there which are crucial for an understanding of the nature of the corporate society emerging in the early Muslim period.

1) The basis of this article is a paper, "Religious Communities in Umayyad 'Irāq" delivered at the sixth annual meeting of the Middle East Studies Association of North America at the State University of New York, Binghamton, in November of 1972.

There are several criteria which point to the existence of religious communities in the late Sasanian period. The first is the spread of a primarily religious personal identity and religiously sanctioned way of life among Jews and Christians. The religious leaders themselves drew the ordinary faithful into operating communities of law reinforced by forms of religious education that emphasized doctrinally laden liturgy, weekly congregational worship, and concepts of communal property.

From an institutional point of view, the Jews were organized into the most fully developed community in Sasanian Iraq complete with a system of religious law, urban institutions, schools, and synagogues. The religious scholars who produced the Talmud were able to apply the religious law to the life of the community and to enforce the dietary laws because rabbis trained in the schools were employed by the exilarchs as judges in the rabbinical courts (*beth din*), as market inspectors and as local administrators who collected the poll tax. Talmudic Judaism was also spread by the disciples of the rabbis while the semi-annual assemblies of the schools served as important and effective means of popularizing the rabbis' concept of a life ordered by religious law among the lay community. This desire to apply Talmudic law was directly responsible for the formation of separate urban Jewish communities where a disciplined liturgical and legal life could be realized most effectively with the result that the change from a rural agricultural society to an urban society was already underway among the Jews of Iraq in the late Sasanian period ¹⁾.

By the early seventh century the Christians in Iraq had been divided into separate Nestorian and Monophysite communities. The Nestorian identity was formalized by the way the Christology and exegesis of Theodore of Mopsuestia was embedded in the liturgy and teaching of the village and monastic schools and imparted to those trained for

1) The primary source for the Jews of Sasanian Iraq is the Babylonian Talmud. The most recent discussion based on all sources is that of J. Neusner, *A History of the Jews in Babylonia*, (Leiden, 1970), especially volume 5, pp. xviii-xix, 23, 55, 148-50, 214-15, 245, 265-8. See also S. W. Baron, *Social and Religious History of the Jew* (New York, 1958).

leadership as well as to laymen. Communal discipline was stiffened by the spread of a reformed coenobitic monasticism subjected to rules and by the foundation of new monasteries from the 580's to the 620's. In the same period the practical problems of church government led to the extension of canon law to cover marriage, property, and inheritance, first for the clergy (in 544 at the synod of Mar Abā I), and then for the laity (at the synod of Īshō'yahb̄h I in 585). This coincided with the emergence of the concept of church property as community property, with references to communal assemblies composed of the clergy and faithful at the levels of the village parish and diocese, and, by 576, with the designation of the priest as religious judge¹). For their part, Monophysites had begun to establish village schools and by the end of the third decade of the seventh century had come to form a community of their own in Iraq as part of the Jacobite Church of Syria²).

Magians might also be described as forming an imperfectly developed community in late Sasanian Iraq. They were united among themselves and isolated from the members of other religions around them by a concept of themselves as a community (dēn). They had their own hierarchic, ecclesiastical organization parallel to the state, a distinctive cult, a body of scripture, and a religious law administered by mōbadhs and hirbadhs that sanctioned certain social customs such as the exposure of the dead, the prayer of silence, and endogamy. But Magianism was essentially a ruling-class religion, and Magian Persians formed a kind of religious caste in Sasanian Iraq. The creation of a larger group identity was inhibited by the nature of the cult itself which only required the participation of the priesthood and by the way religious education tended to be confined to the upper classes. While state support may have helped to discourage the development of completely autonomous

1) J. B. Chabot, *Synodicon Orientale*, (Paris, 1902), pp. 82-4, 102-3, 123-4, 158, 181-2, 335-7, 359-61, 418, 441.

2) F. Nau, "Histoires d'Aḥoudemmeh et de Marouta, métropolitains Jacobites de Tagrit et de l'Orient", *Patrologia Orientalis*, V. 3 (1909), pp. 7-96. For both Nestorians and Monophysites see J. Labourt, *Le Christianisme dans l'empire perse sous la dynastie sassanide*, (Paris, 1904).

institutions, the way the Magian cult and education were maintained privately within priestly families is of supreme importance ¹).

Secondly, the formation of such closely knit communities increasingly isolated the members of one group from those of another. The boundaries created between religious groups by separate bodies of law are indicative of the rising barriers to interfaith communication at the end of the Sasanian period. The defensiveness associated with this development is well symbolized by the reference in the Nestorian synod of Joseph in 554 to the canons as "high walls, impregnable fortresses, protecting their guardians against all danger" ²). For Jews this meant that the witness of apostates and sectarians (minnim) was not admitted in the rabbinic court, and that the rabbis opposed the sale of wine to gentiles. Among Christians the social barriers created by restrictions on marriage in canon law were specifically intended to distinguish Nestorians from the members of other religions. The establishment of forbidden degrees of kinship for marriage by the synod of Mar Abā I in 544 was aimed at the Magians while at the same time the prohibition of the marriage of a man to his brother's wife was directed at the Jews ³). Not only were Nestorian priests forbidden to marry unbelievers in 554, but in 585 the marriage of any Nestorian with a Monophysite was forbidden ⁴). The final separation between Nestorians and Monophysites in Iraq occurred in the second decade of the seventh century when mixed congregations and monasteries were purged by both sides. Thereafter villages tended to be all Nestorian or all Jacobite. About the same time the gnosticized pagans of lower Iraq who were becoming Mandaean were raising barriers between themselves and the Jews ⁵).

Thirdly, the structure of existing religious communities tended to become more rigid because of the way they received official or semi-

1) A. Christensen, *L'Iran sous les Sassanides*, (Copenhagen, 1944); R. de Ménasce, "L'Eglise mazdéenne dans l'empire sassanide", *Cahiers d'histoire mondiale*, V. 2 (1955), pp. 554-565.

2) Chabot, pp. 97, 355.

3) *Ibid.*, pp. 82-84, 335-37.

4) *Ibid.*, pp. 102, 158, 360, 418.

5) E. Yamauchi, *Mandaic Incantation Texts*, (New Haven, 1967), pp. 33-34, 45.

official recognition by the Sasanian state. The importance of Iraq for defense and revenue combined with the fact that the province was inhabited largely by non-Persians and non-Magians led the later Sasanians to experiment with means to ensure loyalty by granting military protection and a degree of religious toleration in return for the payment of taxes. Tradition reflects this state of affairs in the story that Hurmizd IV (579-590) compared the state to a throne and told the *hirbadhs* that just as the throne needed all four legs to stand, the Sasanian state needed to protect its non-Magian subjects (incidentally described as the two *rear* legs of the throne), especially in Iraq, in order to survive¹). In practice the religious leaders were made responsible for the behavior of the members of their own communities. The exilarch was recognized as the head of the Jewish community which he represented to the state. He was usually allowed to govern the Jews through his own system of administration. The importance of good behavior as well as a suggestion of the causes of government intervention is provided by Rabha's admonition to the people of Mahoza, "I pray you, see that there be concord among you, in order that you shall have peace from the government"²).

In the case of the Nestorians there were two important consequences of such toleration which established precedents for Christians as members of a subject religion. In the first place, the ecclesiastical organization of the Nestorian Church corresponded to the structure of the Sasanian state and to the Magian hierarchy of *mōbadhs*. This meant not only parallels between ecclesiastical and civil provinces, but the identification of the extent of the church with the borders of the Sasanian empire and the application of Sasanian hierarchic concepts to the church. Under these influences the hierarchy of the church was regularized, there was a new insistence on the observance of the *cursus honorum*, and the Nestorians adopted Sasanian-style hierarchic titles

1) Ṭabarī, *Ta'riḫ ar-Rusul wa l-Mulūk*, (Leiden, 1879), V. 1, pp. 990-1; T. Nöldeke, *Geschichte der Perser und Araber zur Zeit der Sasaniden*, (Leiden, 1879), p. 268; Christensen, p. 442; A. Scher, "Histoire nestorienne", *Patrologia Orientalis*, V. 7 (1950) p. 195.

2) M. Rodkinson, *The Babylonian Talmud*, (Boston, 1918), V. 13, p. 24.

such as "Father of fathers", "Shepherd of shepherds", or "Chief of shepherds" for the catholicos patterned after the Sasanian King of kings and *mōbadhān-mōbadh*¹). Correspondence was also expressed in terms of a theory of double sanction, ecclesiastical and secular, for church government. The state was expected to enforce the decisions of Nestorian synods and the Nestorians were expected to express their loyalty to the Sasanians by praying for the monarch and by using excommunication against rebellious Christian subjects²).

In the second place, toleration brought with it the requirement for royal permission for the building of churches and monasteries, for Christian burial, for the promulgation of monastic rules, and for the election of the catholicos. In the latter case the desire of the government for stability and loyalty through the nomination of the catholicos by the king conflicted with the desire of the clergy for ecclesiastical autonomy and led to irregular elevations and the involvement of aristocratic Persian laymen at court in church politics. This situation was responsible for the emergence of two factions which each sought to control the church: the clergy and monks who favored canonical elections, and the lay aristocrats who favored a situation in which they could exercise patronage as astrologers and physicians. The way this conflict was institutionalized at Naṣībīn towards the end of the sixth century made that city an important epicenter of the conflict. At about the same time that reformed coenobitic monasticism with strict rules was being introduced to the monastic communities on Mt. Izla above the city, the Nestorian school in Naṣībīn with its medical branch fell under the influence of Ḥenāna of Adiabene who was trying to work out a theological compromise with the Monophysites. The conflict, which was only aggravated by the involvement of the Monophysites and by the war between the Persians and Byzantines, was at its height in the first three decades of the seventh century, and it was largely because of it that from

1) Chabot, pp. 103, 110, 112, 196, 361, 368, 370, 456, 527, 534.

2) Chabot, pp. 131, 391; I. Guidi, "Chronica Minora I", *Corpus Scriptorum Christianorum Orientalium*, (Louvain, 1955), V. 1, pp. 15-16, V. 2, p. 15; A. Scher, "Histoire nestorienne", *Patrologia Orientalis*, V. 13 (1919), pp. 441-2, 491.

609 to 628 Khusrau Parvīz refused his permission for the election of a catholicos.

Parallel to these developments the Sasanian tribute tax which productive non-combatants were required to pay in return for military protection was beginning to be applied as a poll tax to non-Magians in Iraq. The exemption of the royal family, the high nobility, soldiers, *hirbadhs*, secretaries, and others in royal service from the payment of the poll tax by Khusrau Anūshirvān meant that in Iraq it was paid mostly by the non-Persian, non-Magian part of the population. The exemption of the *hirbadhs* raised the question of the exemption of those engaged in religious professions. The rabbis who collected the poll tax from the Jews were in a position to exempt themselves, but the Christian clergy and monks were still trying to escape the tax at the end of the Sasanian period ¹).

The effects of the Muslim conquest on the religious communities in Iraq were contradictory. In the first place there was no official recognition of either Jews or Christians as religious communities by the Muslim state at the time of the conquest in the same sense that they had constituted communities in the late Sasanian period. Nor was there any official distinction made among non-Muslims. Christians, as such, were not treated as protected people. There were raids on both Monophysite and Nestorian monasteries; monks were killed, taken prisoner or driven to take refuge elsewhere. Large numbers of Monophysite Arabs were killed, enslaved, or converted to Islam. All non-Arabs and non-Muslims in Iraq were treated as subjects liable to the tribute tax, and in mixed cities such as Hīra and Madā'in (Ctesiphon and Seleucia) tribute was imposed on the entire population without regard for religious differences. This picture, drawn from a combination of Arabic and Syriac sources, is corroborated in a rather stylized way by the Nestorian writer, Bar Penkāyē, towards the end of the seventh century who says that the Arabs at the time of the conquest were only interested in raiding,

¹) Neusner, V. 5, pp. 172, 272; Rodkinson, V. 12, pp. 181, 223; Ṭabarī, V. 1, p. 962.

taking captives, and tribute and were willing to allow their new subjects to believe anything they wished. He deplored the demoralizing consequences of indiscriminating toleration in the reign of Mu'āwiya (660-680) when "there was no difference between pagan and Christian; the faithful was not distinct from a Jew"¹).

One result of the conquest was to break the relationship which had existed between the Nestorians and their rulers under the Sasanians. The organizational correspondence between church and state ceased to exist under Muslim rule because the Nestorian church provinces perpetuated Sasanian conditions which did not necessarily correspond to the Muslim administrative system. By 648 the seat of the catholicos had returned to Madā'in although that city was no longer the capital of the state or even of the province. Sasanian-style hierarchic titles were also dropped after the conquest. The catholicos George I (661-680) called himself only "catholicos, patriarch of the East." H^enanīshō' I (686-693) referred to himself only as "catholicos, patriarch by the grace of God"²).

Under these circumstances the late Sasanian pattern of relationships between the state and the religious communities began to be restored by the initiative of the religious leaders themselves who assumed they should deal with their new rulers in the same way they had with the Sasanians. Although the account is legendary, it is worth noticing that the question of the exilarchate was brought to the attention of the Muslim authorities by Bostanai (d. ca. 660) himself whose position had been usurped by his guardian during his minority. Only then did the Muslim government confirm his power to appoint judges and the heads of the Talmudic schools at Sūrā, Nahardea, and Pumbeditha. In the same way, Nestorian leaders managed to have themselves exempted from the poll tax at the local level before such exemptions were recognized in theory. In one case, in the caliphate of 'Umar I (634-644), priests and deacons at Kaskar had been made liable to pay the poll tax and a certain Rabban Theodore, who was a teacher at Kaskar, petitioned

1) A. Mingana, *Sources Syriacques*, (Leipzig, 1908), pp. 175, 179.

2) Chabot, pp. 215, 221, 245, 480, 490, 515; C. Sachau, *Syrische Rechtsbücher*, (Berlin, 1907), V. 2, pp. 12-13.

the 'āmil, Nu'mān b. Muqarrin, and secured an exemption for them in writing ¹). In another instance, at mid-century, Sabhrīsho' the metropolitan bishop of Bēth Garmē (Bājarmā) who had cured the two demon-possessed daughters of the governor of the district, requested and received an exemption from the poll tax in writing for monks, priests, and students (anyone who wore wool, whether tonsured or not ²). By the time of Mu'āwiya the Nestorian Arabs ('Ibād) of Hīra were employed as tax collectors by the Muslims, and in 676 Nestorian canon law prohibited a Christian tax collector from collecting the poll tax from a bishop ³).

On the other hand, the lack of interest on the part of the Muslim government in the internal affairs of the religious communities in Iraq encouraged the continued operation and development of autonomous systems of religious law. The only exception was in the case of the Magians. Because of their official status under the Sasanians, fire temples were treated as state property and confiscated at the time of the conquest. There are no indications of the survival of a public Magian cult, organization or hierarchy in early Muslim Iraq. A typical example of the fate of Magian institutions in Muslim Iraq is provided by the description, in the eighth century, of a ruined fire temple by the side of a road in Marghā infested by devils in the form of black ravens ⁴). But, apart from the Muslim attack on the official aspects of Magianism, there was no interference in private matters. Individual Magians were allowed to pay tribute along with everyone else, and Magian religious and social traditions were preserved in the private practice of upper-class Magian

1) Scher, V. 13, pp. 598-9. Nu'mān b. Muqarrin had been appointed 'āmil of Kaskar by Sa'd after the conquest. He remained there until he was sent to Nihāvand by 'Umar in 642. Abū Yūsuf, *Kitāb al-Kharāj*, tr. E. Fagnan, *Livre de l'impôt foncier*, (Paris, 1921), V. 1, p. 50; Ibn Sa'd, *Kitāb at-Tabaqāt al-Kabīr*, (Leiden, 1909), V. 6, p. 11; Ṭabarī, V. 1, p. 2596.

2) Scher, V. 13, pp. 632-3.

3) Chabot, pp. 225-6, 490. The question of whether or not monks capable of working should be subject to the poll tax continued to be discussed in Islamic law (Abū Yūsuf, p. 188).

4) E. A. Wallis Budge, *The Book of Governors: The Historia Monastica of Thomas Bishop of Marghā*, (London, 1893), V. 2, p. 599.

families which survived into the eighth century at Hīra and Baṣra and other towns of the Sawād and in isolated villages in northern Iraq. At such places Magians continued to practice the family cult, endogamy, the exposure of the dead, and provided religious education for their children ¹).

Otherwise, the situation favored the continued communal development of both Jews and Christians. The religious and social regulations in the Qur'ān did not apply to non-Muslims and the Qur'ān itself (Sūra 5:43-48; 62:5) regards the Torah and the Gospel as the sources of divine law for Jews and Christians to be used by them for judgment. The survival of communal institutions from the Sasanian period such as the religious schools and court systems, synagogues, churches and monasteries, and the Jewish Rabbinate and the Christian ecclesiastical structures led to an increase in religious authority and to the division between religious and secular powers in the communities themselves by the Umayyad period.

For the Jews this meant the emergence of the split between the rabbis and the exilarch and the rise of the Gaonim as the real religious authorities in the community. The background to this development lies in the completion of the Talmud by the early sixth century followed by the interregnum in the office of exilarch in the early seventh century when the heads of the schools effectively acquired religious authority for themselves. After the restoration of the exilarchate in the person of Bostanai exilarchs were never able to fully reassert themselves because of the absence of state support for their religious authority in early Muslim Iraq. The raising of the legal issue which provided the pretext for the break coincided with the first period of Umayyad rule in Iraq when the sons of Bostanai by his Jewish wife, Hisdai and Hanina bar Adai, who succeeded him as exilarchs down to 689 sought to disinherit and claim

1) The only indication of Muslim interference in private Magian affairs is the case in 643 when the caliph 'Umar instructed Bajala b. 'Abda al-Anbārī, who was secretary for Jaz' b. Mu'āwiya at Basra to separate every Magian from his wife and children and to forbid the recitation of the liturgy (zamzama). The order was quickly rescinded. Abū Yūsuf, p. 199; V. Büchner, "Madjus", *Encyclopaedia of Islam* (1), V. 3, p. 99; Ibn Sa'd, V. 7(1), p. 94.

as their own slaves the children of Bostanai by a Persian princess. The rabbis insisted on the rights of Bostanai's children by his Persian wife, but the real issue was over who had the authority to interpret and apply religious law in matters of family life and inheritance. While the sons of Bostanai deposed the heads of the schools and appointed their own partisans, their ultimate inability to impose their will with regard to their half-brothers provides the best evidence that the recognition by the Muslim government of the exilarch's right to appoint judges and the heads of the schools did not extend to authority over the interpretation of the law ¹).

It was in this period, and largely a consequence of this conflict, that the rabbis took advantage of the lack of intervention by the Umayyad government to institutionalize their independent religious authority for themselves in the gaonate by reviving the principle of continuing revelation to justify new gaonic decrees which abrogated and transcended Talmudic laws. The most instructive example is provided by the joint decree by Mar R. Huna at Sūra and Mar R. Rabba at Pumbaditha about 670 that a wife could sue for divorce without losing her property rights. This is not only significant of the freedom of the rabbis to adjust the law on their own authority, but since the purpose of the decree was to make it unnecessary for Jewish women to go to Muslim courts to obtain divorces, it is also an indication of the way this kind of religious authority favored the creation of barriers between the communities ²).

Ibn Da'ūd set the year 689 as the beginning of the gaonic period, and that year does seem to have been a turning point in the emergence of the gaon since it marks the end of the first persecution of the rabbis by the sons of Bostanai and the elevation of Ḥanina of Nahar Pekod as head of

1) A. Goode, "The Exilarchate in the Eastern Caliphate", *The Jewish Quarterly Review*, V. 31, (1940), pp. 155-56.

2) H. Graetz, *History of the Jews*, (Philadelphia, 1941), V. 3, p. 92. This legal issue may have been related to the point of Muslim law that allowed a divorced woman full maintenance during the legal period of separation ('idda) which was based on a variant reading of the Qur'ān transmitted by 'Abd Allāh b. Masūd at Kūfa. N. Coulson, *A History of Islamic Law*, (Edinburgh, 1964), p. 31; Ibn Sa'd, V. 6, p. 4.

the school of Pumbaditha (689-697). There was a second persecution from 719 to 730 when Naṭronia b. Nehemiah (Mar Yanka) was head of the school at Pumbaditha and drove the rabbis opposed to the house of Bostanai to take refuge at Sūra. This resulted in the permanent elevation of the gaon of Sūra over his colleague at Pumbaditha for the rest of the gaonic period. From 730 on the division between religious and secular powers in the community and the dual rule of exilarch and gaon may be regarded as established. Judges for the rabbinic courts were appointed jointly by the exilarch and gaon while each gaon had the right of judicial review over the judges under his jurisdiction. The office of exilarch had become mainly ceremonial, his revenues were limited to districts and towns designated by the state, and he lost his claim to religious authority and his jurisdiction over criminal cases. By the eighth century as well, dynastic succession was beginning to be undermined by the concept of election. The Gaonim held the deciding voice in the choice of a successor from among the family of the exilarch and the investiture ceremonies institutionalized the subordination of the exilarch to the Gaonim in religious matters.

In a similar way the emergence of the maphrian as the head of the Jacobite Church in Iraq and the East has more to do with ecclesiastical independence than with state recognition and is comparable to the rise of the gaonate among the Jews. The Monophysites in the East had only established formal ties with the Jacobite Church in the West in 629 after the end of the war between the Persians and Byzantines. At that time Mārūthā (629-645) had been elected grand metropolitan of the East with his seat at Takrīt. It was Mārūthā who secured terms for the citadel of Takrīt at the time of the Muslim conquest and who created the position that was later called maphrian. This was only a term of honor at first, like gaon, and, significantly, only began to be used as an official title under Barīshō' (669-683) in the reign of Mu'āwiya.

The Nestorians also continued to strengthen the bonds of their community by the development and application of canon law. As early as the 640's the marriage laws were reiterated by ʾIshō'yahbh of Adiabene, but the important developments only resume in the reign of

Mu'āwiya. The synod of George I (661-680) extended church sanction to betrothal by requiring the contract to be made legal by a benediction pronounced in the presence of the cross, and Christian women were forbidden to marry pagans ¹). By that time the Muslim government had adopted the practice of appointing judges for the Nestorians and the synod required litigation between Christians to be judged in the church by judges chosen by the bishop with the consent of the community. No one was to take it upon himself to act as judge unless he was obliged to do so by the government. From other considerations Ziyād was probably responsible for this situation. This practice was eventually recognized in the Iraqi legal tradition and, according to Abū Hanīfa, the appointment by the government of a non-Muslim as a judge among the members of his own religion was valid ²).

The best description of the organization and legal life of the Nestorian community is provided by the correspondence of the catholicos H^enanīshō' I (686-693) during the second civil war. The system of legal administration was based on church districts at the local level of the village parish where the division between religious and civil authority occurred among the Nestorians. There were two officials in each district, both subject to the catholicos: the priest who served as judge, and a civil ruler (shōltānā 'almanayā) who probably enforced the priest's decisions and may have represented the Nestorians before the local Muslim authorities ³). Legal decisions were appealed to the catholicos by unsatisfied litigants, and the legal responses of H^enanīshō' served as precedents on which general statements of law were based. Several interesting and important points emerge from this correspondence. Written documents were regarded as the most acceptable evidence once

1) Chabot, pp. 223-4, 487-8; R. Duval, "Išo'yahb Patriarchae III Liber Epistularum", *CSCO*, V. 11, pp. 153-4, V. 12, p. 114.

2) Chabot, pp. 219-20, 484-5; E. Tyan, *Histoire de l'organisation judiciaire en pays d'Islam*, (Leiden, 1960), p. 90.

3) Sachau, V. 2, pp. 26-7. The Arabic sources describe the Christians of Najrān who were resettled near Kūfa as being under the authority of their bishop, civil ruler ('āqib) and notables. Abū Yūsuf, p. 111; Balādhurī *Kitāb Futūḥ al-Buldān*, (Leiden, 1866), p. 66.

they had been sealed by the ecclesiastical inspector. Poll taxes were imposed as a lump sum on an entire village, and it was up to the villagers themselves to compute and collect them according to differences in wealth. The tax of deceased people was also incumbent on the village if they had not been sealed before they died ¹⁾). Taxation practices were used as precedents to derive principles for inheritance by analogy as in the case in which Ḥ^ḥnanīshō^ḥ decided that since the land and poll taxes incumbent on the estate were paid by each heir in proportion to their share, any debts on an estate should also be divided among the heirs in proportion to their share of the inheritance. The Church even claimed the right to inherit the estates of those who died intestate "in order to take responsibility for taxes levied on them" ²⁾).

This post-conquest tendency towards nearly independent religious communities with a minimum of interference or authorization by the Muslim government was offset by the way conflicts carried over from the Sasanian period were combined with the insistence of religious leaders and others on approaching their new rulers on the same terms and for the same purposes as they had the Sasanians. This is particularly clear in the case of the Nestorians where the church leaders and aristocratic laymen invited state intervention by involving the Muslim government in their internal quarrels. Muslims were drawn into the hostilities between Nestorians and Monophysites in Iraq by the Nestorian catholicos ʾIshō'yahbh III (647-658) who is said to have bribed the Muslim government in order to prevent the Jacobites from building a church of their own in Mawṣil.

The continuation of the conflict between the Nestorian factions for the control of the Church was given added significance after the Muslim conquest by the Persian aristocrats of upper Iraq who managed to preserve their local influence and their lands by putting their property under monastic ownership while they continued to control it by acquiring positions of leadership in the monasteries or in the Church ³⁾).

1) Sachau, V. 2, pp. 14-15, 16-17, 42-43, 184.

2) *Ibid.*, pp. 18-19, 36-37.

3) J. Chabot, "Le livre de la chasteté", *Mélanges d'archéologie et d'histoire*, V. 16

Consequently, instead of taking advantage of the change of regime to secure real ecclesiastical autonomy following the Muslim conquest, the nature of the conflict between the Nestorian factions had the effect of recreating the conditions of the late Sasanian period. Significantly, the pattern emerges first at Naṣībīn immediately after the conquest. The metropolitan Cyriacus had been involved in the triumph of the monastic-clerical faction in the elevation of ʾIshōʿyahbh II (628-643) as catholicos in 628. About 640 his enemies at Naṣībīn brought charges against his followers to the Muslim amīr who allowed them to plunder his cell and the residence of the metropolitan ¹). The aristocratic party seems to have recaptured the office of catholicos in the person of ʾIshōʿyahbh III who appointed two other Persian aristocrats, both named George, as metropolitan bishops of Naṣībīn and Pērāth dh^e Maishān (al-Furāt). The elevation of George the monk to the office of catholicos as George I about 661 coincided with the beginning of Umayyad rule in Iraq and was the signal for the ecclesiastical revolt of his bishops. George of Pērāth brought accusations against the catholicos before the Muslim government and George I was imprisoned by an Arab governor who tried to extort money from him ²).

It is not surprising, then, that the synod held by George I in 676 rejected the concept of church-state correspondence and declared that ecclesiastical procedures such as ordination were not to conform to secular practices but to canon law ³). That this was only a futile attempt to reverse the prevailing state of affairs is reflected by the judgment of

(1896), pp. 271-2; Elias of Nasibin, "Opus Chronologicum", *CSCO*, V. 62, pp. 56-57, V. 63, p. 31; Thomas of Marghā, V. 1, pp. 82, 124, V. 2, pp. 150-151, 170-180, 637.

1) Guidi, V. 1, p. 31, V. 2, p. 26.

2) Thomas of Marghā, V. 2, pp. 181-2, 187-8; Chabot, *Synodicon*, p. 480. There are two possibilities as to who this governor was. George of Pērāth was in the jurisdiction of ʿAbd Allāh b. ʿĀmir b. Kuraiz who was governor of Basra from 661 to 665. But the catholicos at Madāʿin was under Kūfan jurisdiction and Mughīra b. Shuʿba was in his second term as governor of Kūfa from 662 to 669. Other considerations would seem to support the identification of Mughīra as the Muslim governor who had dealings with the Nestorians.

3) Chabot, *Synodicon*, pp. 220, 485.

Bar Penkāyē that the lack of persecution in the reign of Mu‘āwiya had proven disastrous for the Nestorians. Bishops were involved in public affairs, anti-canonc quarrels, civil tribunals, and contested the rule among themselves, while the other church leaders “only understood that they were men and that they governed men”¹⁾.

The involvement of the Nestorians in the closing phase of the second civil war in Iraq brought the first real intervention of the Muslim state into their internal affairs and effectively completed the process by which the Nestorians themselves forced the Muslim government to apply Sasanian methods towards them. Although the catholicos Ḥenanīshō‘ at Madā’in was under rebel rule, first under Mukhtār at Kūfa from 685 to 687 and then under Muṣ‘ab b. az-Zubair from 687 to 690, he seems to have been neutral. His concern for the well-being of his flock took the form of ad hoc arrangements and appointments in lower Iraq and independent legislation for the community. It was the metropolitan of Naṣībīn, John of Dāsen, who took advantage of the situation to acquire the office of catholicos for himself. The Umayyads had defeated Muṣ‘ab in 690 and from 690 to 693 Bishr b. Marwān, a brother of the caliph ‘Abd al-Malik, was governor of Kūfa. Naṣībīn remained in rebel hands and the bribe which John of Dāsen is said to have made to Bishr to secure the deposition of Ḥenanīshō‘ and have himself made catholicos was probably contingent on John delivering Naṣībīn to the Umayyads. At any rate, in 693, for the first time under Muslim rule, Bishr deposed Ḥenanīshō‘ and elevated John of Dāsen. John’s partisans in Naṣībīn led by an aristocratic Christian Persian physician named Mardanshāh then helped ‘Abd al-Malik’s other brother, the governor of the Jazīra, Muḥammad b. Marwān, take the city. This alliance only lasted until the death of John early in 695. Bishr had already died and had been replaced by Ḥajjāj who refused to allow the election of a new catholicos, again marking the first time under Muslim rule that permission was necessary. The hardening of the government’s position under Ḥajjāj coincided with the fall of Mardanshāh and his family at Naṣībīn.

1) Mingana, p. 178.

Ḥenanīshō' continued to exercise a kind of shadow catholicate in semi-retirement at the monastery of Mar Yūnān near Mawṣil until the death of Ḥajjāj when they were able to elect Šelīb^hazēkhā (714-728)¹).

The point to be made here is that this kind of intervention was a consequence of the second civil war and was part of the Umayyad restoration in Iraq which introduced other aspects of Sasanian statecraft in addition to the requirement of government permission for the election of a catholicos and the elevation or deposition of the catholicos for political purposes.

In general non-Muslims involved Muslims in their internal quarrels by the bribery of government officials and denunciation. According to both Sherira and Ibn Da'ūd the exilarchate was acquired by bribing the authorities²). Under such circumstances it seems only natural that the revival of Sasanian administrative practices and theories by Umayyad governors in Iraq should have included the methods by which the Sasanians had dealt with the members of subject religions. This seems to have been especially true of Umayyad governors such as Ziyād and Ḥajjāj whose authority over all of Iraq and its dependencies in the East put them in charge of territory that nearly corresponded to that of the Sasanian empire. Ziyād held the combined governorship of Baṣra, Kūfa and the East from 669 to 672 and it seems too much to suppose that the cluster of events in the life of the religious communities that occurred around 670 were not related to Ziyād's co-ordination of the four Sasanian bureaus (military, finance, correspondence, and documents) for the purposes of Muslim administration, to his formation of a Sasanian-style guard alongside the shurṭa in Baṣra, or to the way he was served by a chamberlain (hājib) when he held audience. By the same token, Ḥajjāj's treatment of the Nestorians should be put in the context of the revival of the Sasanian court for the redress of grievances (maẓālim), the formal review of troops in the Sasanian manner and the justification of the authoritarian rule of the Umayyad restoration by

1) F. Baethgen *Fragmente syrischer und arabischer Historiker*, (Leipzig, 1884), pp. 32-38; Elias of Nasībīn, V. 62, pp. 55-6, 149, 153, 155, V. 63, pp. 31, 72-4; Mingana, p. 184; Sachau, V. 2, pp. vi-xiv, 30-33. 2) Neusner, V. 5, p. 136.

an appeal to fatalism that served the same political purposes as Zurvanism did under the last Sasanians.

This development was paralleled by the reapplication of the principle of correspondence between church and state administrative districts. This appears first in the Nestorian church provinces along the upper Tigris with the formation of the metropolitanate of Mawṣil or Āthōr by combining Adiabene (Ḥazza), Bēth Garmē and the districts north of the greater Zab river to correspond to the Muslim province of Mawṣil. This process seems to have begun in the reign of Mu'āwiya when, about 670, Bēth Garmē was subordinated to Adiabene ¹). It was completed by the early eighth century when Šēlibhazēkhā consecrated a metropolitan bishop for Ḥazza and Mawṣil who had his seat at the monastery of Rabban Qusra in Mawṣil ²).

While the set of relationships which had existed between the Nestorians and the last Sasanians was reconstructed vis-à-vis the Muslim government in this way during the Umayyad period it should be pointed out that the royal nomination of the catholicos and the conflict between nomination and election was only reintroduced under the 'Abbāsids in 775. Nor is there any indication that the Muslim government ever intervened actively in the affairs of the Jewish community until after the advent of the 'Abbāsīd dynasty and then it was to support the Gaonim in the context of the Karaite schism.

This picture of the nature of religious communities in early Muslim Iraq would be incomplete without some consideration of Muslims as a ruling religious community. Although the social realities of Muslim Arabs in this period have more to do with tribalism, Islam contained within itself the concept of a community that replaced the bonds of kinship with a bond of faith. The working out of this concept among Muslims in Iraq where they forged the bonds of a religious community after the fashion of the people around them lies at the heart of the emergence of an Islamic society ³).

1) Chabot, "chasteté", pp. 67-68, 280-281; Duval, V. 11, p. 208, V. 12, p. 151.

2) Sachau, V. 2, p. xiv; Scher, V. 7, p. 201

3) See Cl. Cahen, "Histoire économique-sociale et islamologie. Le problème pré-

Muslims brought the foundations of their own religious law, a form of congregational worship, and the mosque with them to Iraq where the development of their own vocations of religious leadership, education, and legal administration combined their own background with local patterns of organization. At first the Muslim community was virtually identical with the army and its dependents settled in the garrison towns where communal solidarity was expressed in congregational worship, and the leadership of the prayer by the governor as imām made him the official head of the Muslim community in his province. But the natural religious leaders of the community were a group of first and second generation Muslims, the Companions (aṣḥāb, ṣaḥāba) and Followers (tābi‘ūn), whose authority was based on their ability to remember and interpret the Qur’ān and the practices of Muḥammad. At first, as long as ‘Umar followed a policy of Islamic priority in his appointments, there was no difference between religious and secular leaders. Abū Mūsā al-Aṣḥ‘arī was both a Companion and governor of Baṣra from 22/643 to 29/649 and he produced his own system of vocalization (muṣḥaf) for the Qur’ān. But the reassertion of aristocratic tribal leadership in the caliphate of ‘Uthmān reduced these religious leaders to an unofficial or at best semi-official interpretation and development of Islamic requirements for the benefit of converts. Their own behavior set examples for converts to follow as in the way the Follower (tābi‘ī) Ibn Abī Laylā declined the opportunity to dry his hands after performing the ritual ablution (wudū’) at Kūfa. A degree of official recognition was extended to them by Ziyād who paid stipends of between three hundred and five hundred dirhams per year to five hundred shaykhs at Baṣra when he became governor there in 45/665. The way early Muslim religious spokesmen set religious usages in an authoritative manner by their own example and interpretation was sanctioned by the assertion of the infallibility of the community and was too close to the way the rabbis and their disciples developed and spread Talmudic law by their own practices and teaching to have been coincidence. It seems to have been a com-

judiciel de l'adaptation entre les autochtones et l'Islam", *Correspondance d'orient*, V. 5 (1961), pp. 1-19.

bination of the preservation of tribal sunna by pre-Islamic tribal shaykhs with the kind of authority exercised by the rabbis over the Oral Law.

The emergence of the qāḍī as a judge for Muslims was part of the breakdown or delegation of the powers of the amīr which began as early as 642 in Iraq and was completed by 658. The position of the qāḍī had been established by the reign of Mu'āwiya, and beginning with Ziyād, Umayyad governors regularly appointed their own qāḍīs. At the same time, the office of qāḍī tended to conform to the general pattern of religious justice in late Sasanian Iraq and amounted to a combination of the pre-Islamic tribal arbiter (ḥakam) with the administration of religious law by rabbis, priests, or mōbadhs. The fact that the only conscious comparison made by Muslims was to the mōbadh was probably due to the fact that both Magianism and Islam were ruling-class religions, but it is also indicative of the growing recognition of the primarily religious jurisdiction of the qāḍī by the early eighth century. By that time it had also become customary for judgment to be rendered in the mosque after the example of the Magians, Jews and Christians.

A kind of popular religious education also took place in the mosque beginning in the caliphate of 'Alī (656-660). As preachers, storytellers, and teachers of the Qur'ān, the religious leaders popularized often tendentious points of theology and law embedded in local systems of vocalizing the Qur'ān (maṣāḥif), the text of which was used for liturgical purposes in the same way that Christians used liturgy to create sectarian identities.

The nature of early Muslim religious leadership had several important consequences. In the first place, because their status depended on their knowledge of scripture, these spokesmen favored the literal interpretation of the Qur'ān and its application to the public life of the community. The issues of power and authority raised by this attitude led to open conflict with the state as early as the end of 'Uthmān's caliphate¹). The roots of the "pious opposition" of the Umayyad period as well as the literalism and militancy of the Khawārij lie in this conflict

1) M. Hinds, "The Murder of the Caliph 'Uthmān", *International Journal of Middle East Studies*, V. 3 (1972), pp. 450-469.

which created the division between religious and secular leadership in the Muslim community and broke down the original identity of religion and politics in Islam. The awareness of such distinctions seems to be indicated by the fact that in 657 the Khawārij at Ḥarūra' found it appropriate to choose separate amīrs for the war and for prayer¹⁾. Consequently, the division between religious and secular authority emerges as a characteristic of the Umayyad period among Muslims and non-Muslims alike. Much like the Jews and Christians in Iraq, Muslim religious law and ritual developed without direct state support.

Secondly, certain ethical biases inherent in the literal application of the Qur'ān contributed to a more developed concept of a Muslim community based on faith instead of kinship and pressures for its realization. The Khawārij in particular sought to redress real social and economic grievances by insisting on fiscal justice and the complete equality of all Muslims. As a result they attracted non-Arab Muslims (*mawālī*) even before the Shī'a did, and one hears of the first band of Persian *mawālī* to become Khawārij at Kūfa when Mughīra b. Shu'ba was governor for Mu'āwiya (662-669). These ideas were eventually worked out by the moderate Khawāri and the Murji'a at Baṣra in the late seventh and early eighth centuries and were effectively applied by the 'Abbāsids.

Thirdly, the Khawārij were the first to really apply the Qur'ānic requirements for the protection of non-Muslims with a revealed scripture (*ahl al-kitāb*). Their scrupulous regard for the rights of non-Muslims while at the same time they considered Muslims who failed to agree with them as sinners or apostates outside the protection of Islam is well illustrated by the famous account of the rising of the Nāji Khawārij in 38/658. They came across two natives of lower Iraq near Niffār and when one of them, a Muslim *dihqān* called Zadhānfarrūkh, said he regarded 'Alī as the rightful caliph they killed him as an unbeliever (*kāfir*). But when the companion of the unfortunate *dihqān* told them that he was a non-Muslim they let him go because, as they said, they had

1) Ṭabarī, V. 1, p. 3349. It is worth noticing that the responsibility for prayer and war were also separated at Kūfa by Ḥajjāj in 86/705. *Ibid.*, V. 2, p. 1182.

“no way against him”¹⁾). It was the literalist interpretation of the Qur’ān by the pious and the Khawārij that was responsible for adding the requirement of the possession of a revealed scripture in order to be able to purchase toleration to the other aspects of the poll tax derived from the Sasanians. By the early eighth century this had produced the Muslim distinction between the land and poll taxes. As a result this tendency must be added to the revival of Sasanian policies towards the members of subject religions in the Umayyad period because it reinforced the emergence of dhimmī status in Islam.

The impression that is given here of a society composed of self-contained, isolated religious communities should be qualified in one important respect. The bonds of a religious communal identity were effectively limited by their dependence on those who followed religious professions, and on the communication of the outlook and forms of a religious identity to the other members of the community by those leaders whose authority and status depended on its acceptance. The rabbis, mōbadhs, Christian monks and clergy, and to a certain extent even the pious opposition all represented vested interests and throughout the entire period the distinctions built up by religious leaders were broken down by the ordinary faithful in their everyday relations with the members of other religions, especially through commerce and participation in each other’s festivals. These distinctions were also minimized by the way conversions continued to introduce outside influences among both Muslims and Nestorians. The fact that Jewish women were going to Muslim courts to obtain divorces in the reign of Mu‘āwiya, and the reaction of the rabbis, has already been noticed. Bar Penkāyē was equally critical of the contacts of Nestorians with non-Nestorians. Among the “impurities” which crept into the church in the reign of Mu‘āwiya he lists “commerce with the infidels, union with the perverse, relations with the heretics, and friendship with the Jews”²⁾. A specific example of what he was objecting to is provided by the synod of George I in 676 which complained that Christians, after taking the

1) Tabarī, V. 1, p. 3423.

2) Mingana, p. 180.

sacrament, would go straight from church to Jewish taverns to drink wine. This was especially deplored because there was no lack of taverns run by Christians where they might satisfy their desire for wine according to their own custom ¹⁾).

Consequently, the existence of practical limitations to communal barriers are as important to an understanding of early Muslim society as the existence of the formal barriers themselves. There was really never any time when intercommunal contact was entirely cut off, and the effectiveness of Talmudic restrictions among Jews must be measured by the fact that Jews were still selling wine to Christians in the 670's.

1) Chabot, *Synodicon*, pp. 225, 489.